

The House Committee on Judiciary Non-civil offers the following substitute to SB 603:

A BILL TO BE ENTITLED

AN ACT

To amend Code Section 16-13-21 of the Official Code of Georgia Annotated, relating to definitions relative to regulation of controlled substances, so as to revise the definition of "practitioner"; to amend Chapter 26 of Title 43 of the Official Code of Georgia Annotated, relating to nurses, so as to provide for a definition; to provide for enactment of rules and regulations affecting advanced practice registered nurses; to require that applicants for licensure as registered professional nurses undergo a criminal background check; to provide for a change in certain prohibited activities; to change a provision relating to a Drug Enforcement Administration license applicability to nurses and physician's assistants; to amend Article 2 of Chapter 34 of Title 43 of the Official Code of Georgia Annotated, relating to the physicians, so as to provide for a physician to delegate certain medical acts to allow an advanced practice registered nurse to issue prescription drug orders and provide professional samples, order diagnostic studies, medical devices, and in certain life-threatening situations to order radiographic imaging; to provide for construction and limitations related to such delegation; to provide for definitions; to provide for the conditions of a nurse protocol agreement; to provide for patients receiving certain care to be examined by a physician on a determinative basis; to provide for execution of prescription drug orders; to prohibit certain activities in certain business establishments; to require that applicants for licensure as a physician undergo a criminal background check; to provide for related matters; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Code Section 16-13-21 of the Official Code of Georgia Annotated, relating to definitions relative to regulation of controlled substances, is amended by striking paragraph (23) and inserting in its place the following:

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1 enact rules and regulations for advanced practice registered nurses in performing acts as
2 authorized in Code Section 43-34-26.3;"

3 **SECTION 4.**

4 Said chapter is further amended by striking Code Section 43-26-7, relating to requirements
5 for licensure as a registered professional nurse, and inserting in lieu thereof the following:
6 "43-26-7.

7 (a) Any applicant who meets the requirements of this Code section shall be eligible for
8 licensure as a registered professional nurse.

9 (b) An applicant for licensure by examination shall:

10 (1) Submit a completed written application and fee;

11 (2) Have graduated from a nursing education program, approved by this board, or which
12 meets criteria similar to, and not less stringent than, those established by this board;

13 (3) Pass a board recognized licensing examination; provided, however, such examination
14 may not be taken prior to graduation from the nursing education program; ~~and~~

15 (4) Provide the board with any and all information necessary, including but not limited to
16 classifiable sets of fingerprints, to perform a criminal background check and expressly
17 consent and authorize the board or its representative to perform such a check. The
18 applicant's fingerprints shall be forwarded to the Georgia Crime Information Center which
19 shall run a criminal background check on the applicant and provide the results of the
20 background check to the board. Additionally, the applicant's fingerprints will be forwarded
21 to the Federal Bureau of Investigation for a national criminal history record check. The
22 applicant shall be responsible for all fees associated with the performance of a background
23 check; and

24 (5) Meet such other criteria as established by the board.

25 (c) An applicant for licensure by endorsement shall:

26 (1) Submit a completed written application and fee;

27 (2) Have passed a board recognized licensing examination following graduation from the
28 nursing education program;

29 (3) Submit verification of initial and current licensure in any other licensing jurisdiction
30 administering a board recognized licensing examination;

31 (4) Have practiced nursing as a registered professional nurse for a period of time as
32 determined by the board or have graduated from a nursing education program within the
33 four years immediately preceding the date of the application; and

34 (5) Meet such other criteria as established by the board.

35 (d) An applicant for reinstatement who has previously held a valid license in Georgia shall:

36 (1) Submit a completed written application and fee;

(2) Have practiced nursing as a registered professional nurse for a period of time as determined by the board or have graduated from a nursing education program within the four years immediately preceding the date of the application; ~~and~~

(3) Provide the board with any and all information necessary, including but not limited to classifiable sets of fingerprints, to perform a criminal background check and expressly consent and authorize the board or its representative to perform such a check. The applicant's fingerprints shall be forwarded to the Georgia Crime Information Center which shall run a criminal background check on the applicant and provide the results of the background check to the board. Additionally, the applicant's fingerprints will be forwarded to the Federal Bureau of Investigation for a national criminal history record check. The applicant shall be responsible for all fees associated with the performance of a background check; and

(4) Meet such other criteria as established by the board."

SECTION 5.

Said chapter is further amended by striking paragraph (4) of Code Section 43-26-10, relating to the prohibition of practicing as a registered professional nurse without a license, and inserting in lieu thereof the following:

"(4) Use any words, abbreviations, figures, letters, title, sign, card, or device implying that such person is a registered professional nurse or advanced practice registered nurse unless such person is duly licensed so to practice under the provisions of this article;"

SECTION 6.

Article 2 of Chapter 34 of Title 43 of the Official Code of Georgia Annotated, relating to physicians, is amended by striking subsection (g) of Code section 43-34-26.1, relating to delegation of authority to a nurse or physician's assistant, and inserting in lieu thereof the following:

"(g) Nothing in this Code section shall be construed to authorize or permit the issuance of a Drug Enforcement Administration license to a nurse ~~or physician's assistant~~ who is not an advanced practice registered nurse."

SECTION 7.

Said article is further amended by adding a new Code Section 43-34-26.3 to read as follows:

"43-34-26.3.

(a) As used in this Code section, the term:

(1) 'Advanced practice registered nurse' shall have the same meaning as provided in paragraph (1.1) of Code Section 43-26-3.

(2) 'Controlled substance' means any controlled substance as defined in Code Section 16-13-21 but shall not include any Schedule I controlled substance included in Code Section 16-13-25 or any Schedule II controlled substance included in Code Section 16-13-26.

(3) 'Dangerous drug' means any dangerous drug as defined in Code Section 16-13-71.

(4) 'Delegating physician' means a physician who has entered into a nurse protocol agreement pursuant to this Code section.

(5) 'Designated teaching hospital' shall have the same meaning as provided in Code Section 31-7-95.

(6) 'Diagnostic study' means a laboratory test, X-ray, ultrasound, or other procedure used to identify a characteristic or distinguishing feature of a particular disease or condition.

(7) 'Drug' means any dangerous drug or controlled substance.

(8) 'Free health clinic' shall have the same meaning as provided in Code Section 51-1-29.4.

(9) 'Life threatening' means an emergency situation in which a patient's life or physical well-being will be harmed if certain testing is not performed immediately.

(10) 'Nurse protocol agreement' means a written document mutually agreed upon and signed by an advanced practice registered nurse and a physician, by which document the physician delegates to that advanced practice registered nurse the authority to perform certain medical acts pursuant to this Code section, and which acts may include, without being limited to, the ordering of drugs, medical devices, medical treatments, or diagnostic studies or in life-threatening situations radiographic imaging tests. Such agreements shall conform to the provisions set forth in subsection (c) of this Code section.

(11) 'Order' means to select pursuant to a nurse protocol agreement which drug, medical device, medical treatment, or diagnostic study or in life-threatening situations radiographic imaging test is appropriate for a patient and to communicate the same in writing, orally, via facsimile, or electronically.

(12) 'Physician' means a person licensed to practice medicine under this chapter and:

(A) Whose principal place of practice is within this state and is within 100 miles of the location where the nurse protocol agreement is being utilized; or

(B) Whose principal place of practice is outside this state but is within 50 miles of the location where the nurse protocol agreement is being utilized within this state.

(13) 'Prescription drug order' means a written or oral order of an advanced practice registered nurse for a drug or medical device for a specific patient. Such term includes an electronic visual image prescription drug order and an electronic data prescription drug order.

(14) 'Professional sample' means a complimentary dose of a drug, medication, medication voucher, or medical device provided by the manufacturer for use in patient care.

1 (15) 'Radiographic imaging test' means a computed tomography, magnetic resonance
2 imaging, positron emission tomography, or nuclear medicine.

3 (16) 'Routine preventive health maintenance' means evaluation and maintenance of an
4 individual's health including those medical acts appropriate to age and gender, medical
5 history, and risk factors such as examination, counseling, anticipatory guidance, risk factor
6 reduction intervention, and ordering of appropriate immunizations and laboratory and
7 diagnostic procedures.

8 (b)(1) In addition to and without limiting the authority granted pursuant to Code Section
9 43-34-26.1, a physician may delegate to an advanced practice registered nurse in
10 accordance with a nurse protocol agreement the authority to order drugs, medical devices,
11 medical treatments, or diagnostic studies or in life-threatening situations radiographic
12 imaging tests.

13 (2) A physician who is a party to a nurse protocol agreement shall review on a regular basis
14 the medical acts delegated to an advanced practice registered nurse in a nurse protocol
15 agreement. An advanced practice registered nurse who is party to a nurse protocol
16 agreement shall be responsible for the nursing acts performed under such an agreement and
17 a delegating physician shall be responsible for the medical acts performed under such an
18 agreement.

19 (3) A patient who receives medical services from an advanced practice registered nurse
20 pursuant to a nurse protocol agreement shall be evaluated or examined by a physician at
21 intervals for such evaluation or examination as determined by the delegating physician and
22 in accordance with the accepted standards of medical care as established by the board.

23 (c) A nurse protocol agreement between a physician and an advanced practice registered
24 nurse pursuant to this Code section shall:

25 (1) Be between an advanced practice registered nurse who is in a comparable specialty area
26 or field as that of the delegating physician;

27 (2) Contain a provision for immediate consultation between the advanced practice
28 registered nurse and the delegating physician; if the delegating physician is not available,
29 the delegating physician for purposes of consultation may designate another physician who
30 is aware of and in agreement with the nurse protocol agreement;

31 (3) Identify the parameters under which delegated acts may be performed by the advanced
32 practice registered nurse, including without limitation the number of refills which may be
33 ordered, the kinds of diagnostic studies which may be ordered, the extent, if authorized, to
34 which radiographic images may be ordered in life-threatening situations, and the
35 circumstances, if any, under which the advanced practice registered nurse may execute a
36 prescription drug order. The nurse protocol agreement may allow an advanced practice
37 registered nurse to review a report of diagnostic studies or radiographic images but shall

1 not authorize the advanced practice registered nurse to interpret such images and shall
2 require the advanced practice registered nurse to forward a copy of such report to the
3 delegating physician;

4 (4) Require documentation either in writing or by electronic means or other medium by
5 the advanced practice registered nurse of those acts performed by the advanced practice
6 registered nurse which are medical acts required to be authorized by the delegating
7 physician in the nurse protocol agreement;

8 (5) Include a schedule for periodic review by the delegating physician of patient records;

9 (6) Provide for patient review, evaluation, or follow-up by the delegating physician, with
10 the frequency of such review, evaluation, or follow-up based on the nature, extent, and
11 scope of the delegated act or acts as determined by the delegating physician and in
12 accordance with paragraphs (3) and (4) of subsection (b) of this Code section;

13 (7) Be reviewed, revised, or updated annually by the delegating physician and the advanced
14 practice registered nurse;

15 (8) Be available for review upon written request to the advanced practice registered nurse
16 by the Georgia Board of Nursing or to the delegating physician by the board.

17 (9) Be approved by the board and filed with the board by the delegating physician;

18 (10) Not allow an advanced practice registered nurse to perform an abortion; and

19 (11) Not allow an advanced practice registered nurse to issue a prescription drug order that
20 is intended to cause an abortion to occur pharmacologically.

21 (d) A written prescription drug order issued pursuant to this Code section shall be signed by
22 the advanced practice registered nurse and shall be on a form which shall include, without
23 limitation, the names of the advanced practice registered nurse and delegating physician who
24 are parties to the nurse protocol agreement, the patient's name and address, the drug or
25 device ordered, directions with regard to the taking and dosage of the drug or use of the
26 device, and the number of refills. A prescription drug order which is transmitted either
27 electronically or via facsimile shall conform to the requirements set out in paragraphs (1)
28 and (2) of subsection (c) of Code Section 26-4-80, respectively.

29 (e) An advanced practice registered nurse may be authorized under a nurse protocol
30 agreement to request, receive, and sign for professional samples and may distribute
31 professional samples to patients. The office or facility at which the advanced practice
32 registered nurse is working shall maintain a list of the professional samples approved by the
33 delegating physician for request, receipt, and distribution by the advanced practice registered
34 nurse as well as a complete list of the specific number and dosage of each professional
35 sample and medication voucher received and dispensed. In addition to the requirements of
36 this Code section, all professional samples shall be maintained as required by applicable
37 state and federal laws and regulations.

(f) A managed care system, health plan, hospital, insurance company, or other similar entity shall not require a physician or advanced practice registered nurse to be a party to a nurse protocol agreement as a condition for participation in or reimbursement from such entity.

(g) A delegating physician may not enter into a nurse protocol agreement pursuant to this Code section with more than four advanced practice registered nurses at any one time, except this limitation shall not apply to an advanced practice registered nurse who is practicing:

(1) In a hospital licensed under Title 31;

(2) In the Department of Human Resources;

(3) In any county board of health;

(4) In any free health clinic;

(5) In a birthing center;

(6) In any entity which has been established under the authority of or is receiving funds pursuant to 42 U.S.C. Section 254b or 254c of the United States Public Health Service Act; or

(7) In a health maintenance organization that has an exclusive contract with a medical group practice or arranges for the provision of substantially all physician services to enrollees in health benefits of the health maintenance organization.

(h) Nothing in this Code section shall be construed to create a presumption of liability, either civil or criminal, on the part of a pharmacist duly licensed under Chapter 4 of Title 26 who, in good faith, fills a prescription drug order of an advanced practice registered nurse issued pursuant to a nurse protocol agreement.

(i) Nothing in this Code section shall be construed to apply to the practice of a certified registered nurse anesthetist.

(j) Nothing in this Code section shall be construed to require an advanced practice registered nurse to be a party to a nurse protocol agreement in order to practice as a registered professional nurse or an advanced practice registered nurse as otherwise permitted by Article 1 of Chapter 26 of this title.

(k) Nothing in this Code section shall be construed to authorize an advanced practice registered nurse to issue a prescription drug order for a Schedule I or II controlled substance or authorize refills of any drug for more than 12 months from the date of the original order except in the case of oral contraceptives, hormone replacement therapy, or prenatal vitamins which may be refilled for a period of 24 months.

(l) It shall be unlawful for a physician to be an employee of an advanced practice registered nurse, alone or in combination with others, if the physician is required to supervise the medical acts of the employing advanced practice registered nurse. Such practice shall be subject to sanctions by the Georgia Board of Nursing as to the advanced practice registered nurse and the board as to the physician.

(m) The board shall have the authority to promulgate rules and regulations to effectuate this Code section, including establishing criteria and standards by which physicians may enter into a nurse protocol agreement."

SECTION 8.

Said article is further amended by adding a new Code section to read as follows:

"43-34-26.4.

No advanced practice registered nurse or physician's assistant shall exercise authority delegated pursuant to Code Section 43-34-26.1 or 43-34-26.3 while located within a general merchandising establishment or business establishment, a portion of which is licensed as a pharmacy pursuant to Article 6 of Chapter 4 of Title 26. This Code section shall not apply to the office of a physician licensed pursuant to this chapter, a hospital licensed pursuant to Title 31, or in a health maintenance organization that has an exclusive contract with a medical group practice to provide or arrange for the provision of substantially all physician service to enrollees in health benefit plans of the health maintenance organization."

SECTION 9.

Said article is further amended by striking subparagraph (a)(1)(A) of Code Section 43-34-27, relating to license requirement for persons engaged in the practice of medicine, and inserting in lieu thereof the following:

"(a)(1)(A) Any person who wishes to obtain the right to practice medicine in this state and who was not, prior to March 16, 1970, registered or licensed to practice medicine, either by the State Board of Medical Examiners or the State Board of Examiners in Osteopathy, shall, before it shall be lawful for him to practice medicine in this state, make application to the board through the executive director, upon such forms and in such manner as shall be adopted and prescribed by the board, and shall obtain from the board a license to practice medicine. All applicants shall provide the board with any and all information necessary, including but not limited to classifiable sets of fingerprints, to perform a criminal background check and expressly consent and authorize the board or its representative to perform such a check. The applicant's fingerprints shall be forwarded to the Georgia Crime Information Center which shall run a criminal background check on the applicant and provide the results of the background check to the board. Additionally, the applicant's fingerprints will be forwarded to the Federal Bureau of Investigation for a national criminal history record check. The applicant shall be responsible for all fees associated with the performance of a background check. Any person who practices medicine without first having obtained a license shall be deemed to have violated this chapter. All applicants for a license to practice medicine or for a

1 renewal of any such license which has been revoked shall furnish the board with evidence
2 of good moral character. Applications from candidates to practice medicine or surgery
3 in any of its branches shall be accompanied by proof that the applicant is a graduate of
4 one of the two colleges of medicine now existing in this state, or from some other
5 legally incorporated medical college or osteopathic college."

6 **SECTION 10.**

7 All laws and parts of laws in conflict with this Act are repealed.